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SERVICE DATE – APRIL 17, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34857]

The Kansas City Southern Railway Company—Temporary Trackage Rights

Exemption—Union Pacific Railroad Company and BNSF Railway Company

Union Pacific Railroad Company (UP) and BNSF Railway Company (BNSF) have agreed to grant temporary overhead trackage rights to The Kansas City Southern Railway Company (KCSR) over approximately 354 miles of rail line owned by UP, and over approximately 30 miles of rail line owned by BNSF.

Under the trackage rights agreement, UP will provide KCSR with non-exclusive, temporary trackage rights as follows: (1) between Shreveport, LA, approximately UP milepost 230.8 and the Quitman Street Connection in Houston, TX (UP's Lufkin Subdivision), a total distance of approximately 235 miles, (2) between UP milepost 238.1 (BNSF Connection) and UP milepost 238.0 (T&NO Junction), approximately 0.1 mile, and (3) between Algoa, TX, UP milepost 343.1 and Placedo, TX, UP milepost 224.1 (UP's Angleton Subdivision), a distance of approximately 119 miles. In addition, to enable KCSR to reach UP's Angleton Subdivision from Houston, BNSF will grant temporary trackage rights to KCSR as follows: (1) over a portion of BNSF's rail line between Tower 81 in Houston (T&NO Junction) at BNSF milepost 19.4 and the Alvin Wye at BNSF milepost 0.0, and (2) between Alvin Crossover, milepost 28.6 and Algoa,

milepost 24.4 (BNSF's Mykawa Subdivision), a distance of approximately 30 miles.

The parties state that the transaction was scheduled to be consummated on April 1, 2006, or upon the effective date of the exemption,¹ and that the temporary trackage rights are scheduled to expire on June 1, 2006. The purpose of the trackage rights over UP's and BNSF's lines is to allow KCSR to provide a connection between Mexico, The Texas Mexican Railway Company's (Tex Mex) rail lines, and the remainder of KCSR's system while UP's Glidden Subdivision is out of service due to certain programmed track, roadbed and structural maintenance.²

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease

¹ Under 49 CFR 1180.4(g), a railroad must file a verified notice of the transaction with the Board at least one week in advance of consummation, in order to qualify for an exemption under 49 CFR 1180.2(d). In this case, the verified notice was filed on March 29, 2006. Therefore, the earliest the transaction could have been consummated was April 5, 2006, the effective date of the exemption.

² Applicants state that Tex Mex has operated over the Glidden Subdivision via trackage rights since 1996. On March 29, 2006, in STB Finance Docket No. 34849, Kansas City Southern, The Kansas City Southern Railway Company, and The Texas Mexican Railway Company—Exemption for Transactions Within a Corporate Family, applicants filed a verified notice of exemption involving the assignment to, and acquisition by, KCSR of all of Tex Mex's trackage and operating rights. Also on March 29, in STB Finance Docket No. 34848, The Kansas City Southern Railway Company—Trackage Rights Exemption—The Texas Mexican Railway Company, Tex Mex agreed to grant KCSR local and overhead trackage rights over its entire 157-mile rail line between Laredo and Corpus Christi, TX. All three related notices are being published and served simultaneously.

and Operate, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34857, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on William A. Mullins, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

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Decided: April 11, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary